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02.5.2024
Ct. No. 14
SB

W.P.A. 26642 of 2023

Md. Dulal Sk & Anr.
Vs.
The State of West Bengal & Ors.

Mr. M. K. Das
Mr. Mobaidur Hossain
... for the petitioners

Ms. Sonal Sinha
Mr. Avishek Prasad ... for the State
Ms. Manali Biswas
Mr. Mrinal Saha For respondent No. 7

Photograph of two adjacent houses as filed in Court, is taken on record. Copy of the same be served upon the learned advocates for the other side.

Report filed on behalf of the State is also taken on record. Copy of the same be served upon the learned advocates for the other side.

Learned counsel appearing for the petitioners submits as follows. The petitioners and the private respondents purchased two contiguous plots of land. According to their respective sanctioned plans they constructed their houses. The private respondents secured their house with grill and the like. But, before the petitioners could do that the private respondents approached the Civil Court with a partition suit. By an order dated 30.3.2022 passed by the learned Civil Judge, Senior division, 2nd Court, Berhampur, Murshidabad in Partition Case No. 93 of 2022, an interim order of *status quo* was granted as regards possession of the parties in the said property. An appeal has been preferred against that order. Unless the order is modified the private respondents would continue to prevent

the petitioners from doing any repair work on installing door and like at his own premises. Unless the petitioners are able to do the same, they would not be in a position to use the said house. In fact, the private respondents are preventing the petitioners from entering into the said property.

Learned counsel appearing for the private respondents denies the allegation and submits as follows. The appeal against the order of *status quo* is still pending. However, the private respondents have not restrained the petitioners from entering into their house.

Learned counsel appearing for the State relies on the report and submits that the police are keeping a close watch on the developments in the locality and have instituted a proceeding under Section 107 of the Code.

It is true that unless the petitioners are allowed to install door or grill at their said house they would not be in a position to use the same and as owners of the house, they ought not be prevented from doing so till the disposal of a suit.

Let the petitioners pray for early disposal of the appeal before the learned appellate Court and they shall also be at liberty to pray for modification of the order of *status quo* before the learned Trial Court. If such application/appeal is made, the same shall be decided expeditiously and in accordance with law.

The police shall also keep a sharp vigil at the locale and ensure that no breach of peace takes place. Surveillance shall include frequent visits by police patrol.

With these observations, the writ petition is disposed of.

As affidavits were not called for, the allegations made are deemed not to have been admitted.

Parties shall act on server copy of this order duly downloaded from the official website of this Court.

(Jay Sengupta, J.)